

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Cash Lane Investors, LLC)	
	Map 051-07-0, Parcel 99.00)	Davidson County
	Commercial Property)	
	Tax Years 2005 & 2006)	

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$655,000	\$6,254,900	\$6,909,900	\$2,763,960

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on January 25, 2007 in Nashville, Tennessee. In attendance at the hearing were registered agent L. Stephen Nelson and Debbie Smith for the appellant, and Davidson County Property Assessor's representative Kenny Vinson.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 6.02 acre tract improved with a 134 unit congregate care facility constructed in 1984 located at 208 Due West Avenue in the Madison section of Nashville, Tennessee. Subject property is commonly referred to as the Maybelle Carter Senior Adult Community.

The taxpayer contended that subject property should be valued at \$4,800,000. In support of this position, the taxpayer argued that it purchased subject property in an arm's length transaction on July 15, 2004 for \$4,800,000. In addition, the taxpayer introduced an income approach which Mr. Nelson asserted supports a value indication of \$4,354,500. Mr. Nelson placed greatest weight on the sale of subject property.

The assessor contended that subject property should be valued at \$6,909,900. In support of this position, Mr. Vinson testified that the assessor's records indicate the July 15, 2004 sale was an auction sale.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 21-22.

In view of the definition of market value, the income-producing nature of the subject property and the age of subject property, generally accepted appraising principles would indicate that the market and income approaches have greater relevance and should normally be given greater weight than the cost approach in the correlation of value indicators.

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$4,800,000 as contended by the taxpayer. As will be discussed immediately below, the administrative judge finds that the taxpayer introduced a prima facie case which was not rebutted by the assessor of property.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds the taxpayer's unrefuted evidence established that Marcus & Millichap, a real estate investment brokerage company, was engaged by the Roderick Group, Inc. with an exclusive listing agreement on February 19, 2004 for the sale of subject property. According to Mike Pardoll's letter of January 22, 2007 to Rick Stern:

A detailed marketing package was sent out to over 40 interested groups. . . We received several offers and finally accepted an offer from RLA of Madison, Inc. We closed the transaction on July 15, 2004 for . . . \$4,800,000. The sale was arm's length, and was negotiated between the seller and the buyer.

The administrative judge finds Mr. Vinson could not testify with sufficient certainty why the assessor's records indicate the transaction was actually a sealed bid auction.

The administrative judge finds that even if the sale was not adopted as the basis of valuation, the taxpayer's income approach was not contested and indicates an even lower value. Like Mr. Nelson, the administrative judge would typically place greater weight on the income approach. In this case, however, the subject property sold for a somewhat higher value less than six months prior to the relevant assessment date of January 1, 2005.

Based upon the foregoing, the administrative judge finds that subject property should be valued at \$4,800,000 in accordance with the sale of subject property on July 15, 2004.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax years 2005 and 2006:


<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$655,000	\$4,145,000	\$4,800,000	\$1,920,000

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 15th day of February, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. L. Stephen Nelson
Jo Ann North, Assessor of Property